



Intelligent Plans
and examinations

Report on Davenham and Whatcroft Neighbourhood Plan 2015- 2030

**An Examination undertaken for Cheshire West and Chester Council with
the support of the Davenham Parish Council on the March 2017
submission version of the Plan.**

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Contents

	Page
Main Findings - Executive Summary	4
1. Introduction and Background	4
• Davenham and Whatcroft Neighbourhood Plan 2015–2030	4
• The Independent Examiner	4
• The Scope of the Examination	5
• The Basic Conditions	6
2. Approach to the Examination	6
• Planning Policy Context	6
• Submitted Documents	7
• Site Visit	7
• Written Representations with or without Public Hearing	7
• Modifications	8
3. Procedural Compliance and Human Rights	8
• Qualifying Body and Neighbourhood Plan Area	8
• Plan Period	8
• Neighbourhood Plan Preparation and Consultation	8
• Development and Use of Land	9
• Excluded Development	9
• Human Rights	9
4. Compliance with the Basic Conditions	9
• EU Obligations	9
• Main Issues	9
• General Issues of Compliance	10
• Regard to National Policy and Guidance	10
• Contribution to Sustainable Development	10
• General Conformity with Strategic Development Plan Policies	11
• Specific Issues of Compliance	11
• Village Character	11
• Housing Location	15
• Sustainability and Local Need	16
• Building Sustainability	17
• Landscape and Protected Areas	17
• Wildlife	18
• General	19
5. Conclusions	20
• Summary	20
• The Referendums and its Area	20

Main Findings - Executive Summary

From my examination of the Davenham and Whatcroft Neighbourhood Plan and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Davenham and Whatcroft Parish Council;
- The Plan has been prepared for an area properly designated – part of the parish of Davenham and Whatcroft – as shown on Figure 2.1 of the Plan;
- The Plan specifies the period to which it is to take effect – 2015 - 2030; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Davenham and Whatcroft Neighbourhood Plan 2015- 2030 (the Plan)

- 1.1 Davenham and Whatcroft Parish lies to the south of Northwich. Its largest settlement, the village of Davenham, is defined as being part of the Northwich Urban Area but the parish as a whole is predominantly rural in character and occupies a low ridge between the River Weaver and the River Dane. Whatcroft is a small hamlet having limited services.
- 1.2 The Plan has been prepared by the Neighbourhood Planning Working Group of the Davenham and Whatcroft Parish Council (the Parish Council), with work commencing in 2012.

The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed to examine the Plan by Cheshire West and Chester Council (the Council), with the agreement of the Parish Council.

- 1.4 I am a chartered town planner and former government Planning Inspector and have had some 40 years' experience of preparing, interpreting and examining development plans. I am an independent examiner and do not have an interest in any of the land that may be affected by the Plan.

The Scope of the Examination

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the Plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified Plan is submitted to a referendum; or
 - (c) that the Plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
 - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the Local Planning Authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
 - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the Plan must:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan for the area;
 - Be compatible with and not breach European Union (EU) obligations; and
 - Meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for the plan area, not including documents relating to excluded minerals and waste development, is the Cheshire West and Chester Local Plan (Part One) Strategic Policies ('the Local Plan Part One') adopted in 2015. The Plan must be in general conformity with the policies in the Local Plan Part One together with the retained policies of the Vale Royal Local Plan which are considered strategic.
- 2.2 The Council is in the process of preparing Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies ('the Emerging Local Plan'). While the Plan is not required to be in general conformity

with policies in the Emerging Local Plan, conflicts between the policies in the two plans should be minimised¹.

- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework ('the Framework'). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

Submitted Documents

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the Independent Review Draft of the Davenham and Whatcroft Neighbourhood Plan 2015 -2030, dated 30 March 2017;
 - Figure 2.1 of the Plan which identifies the area to which it relates;
 - the Consultation Statement;
 - the Basic Conditions Statement dated March 2017;
 - all the representations that have been made in accordance with the Regulation 16 consultation; and
 - the Strategic Environmental Assessment, Sustainability Appraisal and Habitats Regulations Assessment Screening Determination dated February 2017 prepared by the Council on behalf of the Parish Council.
 - Additional written information and a map provided by the Council in response to questions raised in my letter of 15 June 2017².
 - Additional written information provided by the Parish Council in response to questions raised in my letters of 27 June 2017 and 18 July 2017³.

Site Visit

- 2.5 I made an unaccompanied site visit to the Neighbourhood Plan Area on 18 July 2017 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

- 2.6 This examination has been dealt with solely by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan, and presented arguments for and against the Plan's suitability to proceed to a referendum. No request was made for hearing sessions to be held.

¹ PPG Reference ID: 41-009-20160211.

² Available on the Parish Council web site: <https://www.davenhampc.org.uk/home/the-neighbourhood-plan/>

³ See footnote 2 above.

Modifications

- 2.7 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.
- 2.8 The Plan includes a section entitled Aspirations⁴ which contains matters which, as is acknowledged in the Executive Summary, are outside the remit of this land use Plan⁵. That being the case, it would be outside my remit as an examiner to comment on these matters, or deal with the representations which they have attracted. Consequently, I have not done so.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Plan has been prepared and submitted for examination by the Parish Council which is a qualifying body. The Neighbourhood Plan Area covers only part of the parish as now defined. It excludes the area south of Gadbrook Park which until April 2015 formed part of a neighbouring parish.
- 3.2 The Neighbourhood Plan Area, as shown on Figure 2.1 of the Plan, was designated by the Council on 8 May 2013. The Plan is the only neighbourhood plan for the Neighbourhood Plan Area and does not relate to land outside that area.

Plan Period

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2015 to 2030.

Neighbourhood Plan Preparation and Consultation

- 3.4 In preparing the Plan local residents, businesses and landowners together with developers have been consulted and informed by way of surveys, questionnaires, public meetings, newsletters, public notices and the Parish

⁴ PPG Reference ID: 41-004-20170728 advises that 'Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable'.

⁵ Neighbourhood Plans are confined to the use of land by virtue of Section 38A(2) of the Planning and Compulsory Purchase Act 2004 (as amended).

Council's website. The consultations required by Regulation 14 and Regulation 16 have been carried out in the prescribed manner. I am satisfied that the consultations carried out are likely to bring the Plan to the attention of people who live, work and carry out business in the area, having regard to the advice in the PPG on plan preparation, and that they have met the legal requirements.

Development and Use of Land

- 3.5 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.6 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.7 The Parish Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998), and from my independent consideration of the matter I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The Council carried out a screening exercise to determine whether a Strategic Environmental Assessment and a Habitat Regulation Assessment would be required. It concluded that neither were required, a conclusion supported by the statutory consultees. On the basis of the information provided and my independent consideration, I am satisfied that the Plan is compatible with EU obligations.

Main Issues

- 4.2 Having considered whether the Plan complies with various legal and procedural requirements it is now necessary to deal with the question of whether it complies with the Basic Conditions (see paragraph 1.8 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies. This is done by considering:
- General issues of compliance of the Plan as a whole; and
 - Specific issues of compliance of the Plan's policies.

General Issues of Compliance

Regard to National Policy and Guidance

- 4.3 The policies in the Plan are arranged into seven groups dealing with Village Character, Housing Location, Sustainability and Local Need, Building Sustainability, Landscape and Protected Areas, Wildlife and General. These policies aim to provide sustainable development by providing an attractive environment for residents, protecting and enhancing the natural environment, conserving and enhancing the historic environment, protecting the open environment of Davenham, managing the generation of additional traffic and supporting services and facilities that underpin the community's lifestyle.
- 4.4 These aims are broadly consistent with those of the Framework insofar as this requires good design; seeks to conserve and enhance the natural environment; seeks to conserve and enhance the historic environment; provides for the identification of Local Green Spaces and the protection and enhancement of valued landscapes; and, promotes healthy communities.
- 4.5 I am satisfied, therefore, that, subject to comments and proposed modifications made below when considering individual policies, the Plan has had regard to national policy and guidance thus meeting this Basic Condition.

Contribution to Sustainable Development

- 4.6 The amount of sustainable development which is considered appropriate for the plan area is set out in the Local Plan Part One, Policy STRAT 5 which states that at least 4,300 new dwellings and 30 ha of additional land for business and industrial development should be provided in the Northwich area which encompasses the town of Northwich and adjacent settlements including Davenham.
- 4.7 The Plan does not make provision for new housing or employment sites in the parish and indeed takes a restrictive approach to the provision of new housing, with Policy VC 2 stating that all such development has to take place within the development boundary which is drawn tightly around the village of Davenham.
- 4.8 It has been suggested that the settlement boundary should be reviewed and new housing sites allocated. I do not agree. Policy STRAT 5 states that the character and individuality of settlements such as Davenham will

be safeguarded – which reflects the approach taken in Policy STRAT 1 of Local Plan Part One. This encourages the use of previously developed land (of which there is a supply in the town of Northwich) and which seeks to minimise the loss of greenfield land (which is what development outside the settlement boundary of Davenham would entail).

- 4.9 It is also the case that planning permissions located adjacent to Davenham (the Parish council refers to three planning permissions which total 122 dwellings) have made a significant contribution to meeting housing requirements in the area.
- 4.10 With these points in mind - having regard to the fact that additional housing sites in the wider Northwich area will be allocated in the emerging Local Plan – I am satisfied the Plan makes a contribution to sustainable development and thus meets this Basic Condition.

General Conformity with Strategic Development Plan Policies

- 4.11 The general aims of the Policies in the Plan are set out in paragraph 4.4 above. These are in general conformity with Local Plan Part One, the objectives of which include promoting regeneration and development in towns such as Northwich, ensuring that development is supported by improvements to infrastructure, services and facilities and ensuring that new development is sustainable and of a high quality that respects heritage assets, local distinctiveness and the character and appearance of the landscape and townscape.
- 4.12 As to the individual policies in the Plan these are dealt with in the following section. Subject to the comments and proposed modifications made there, I am satisfied that the Plan is in general conformity with the strategic policies in the Local Plan Part One and the retained policies of the Vale Royal Local Plan which are considered strategic. Accordingly, this Basic Condition is met.

Specific Issues of Compliance

Village Character

- 4.13 **Policy VC 1** seeks to ensure that the character of new housing development reflects the previous organic growth of the village and does not result in large estate type developments; ideally schemes should be a maximum of 25 houses. It has been suggested that this policy would impose a cap on development. I do not agree. The policy explicitly acknowledges that housing schemes can exceed 25 dwellings, simply requiring that where that occurs *...different areas of distinct and discernible character, each no larger than 25 homes, must be designed*

into the scheme. The policy does not, therefore, place a limit on the amount of development that may be permitted in the village.

- 4.14 Having visited Davenham, I agree with the Parish Council that it has been developed in a mix of styles, none of which dominate. The result is a village with a pleasing appearance made up of developments which are, for the most part, small in scale. In such a context, I agree that large 'estate' types areas of similar appearance should be avoided. Such an approach is consistent with paragraph 56 of the Framework insofar as this seeks to create a strong sense of place and respond to local character and is in general conformity with Policy ENV 6 of the Local Plan Part One which seeks to achieve similar ends.
- 4.15 Policy VC 2 seeks to distinguish between land within the settlement boundary where, subject to other policies in the development plan, development will be permitted and land outside it where development will be restricted. This is in accord with Policy STRAT 9 of Local Plan Part One, the supporting text to which makes clear that settlement boundaries for the four urban areas will be identified. Davenham, of course is treated in this plan as being part of Northwich which is one of those urban areas. The supporting text to Policy STRAT 9 goes on to state that where there is a need to accommodate development on the edge of a settlement the settlement boundary will be drawn to reflect this. Paragraphs 4.6 to 4.10 above set out the reasons why this is not necessary in this instance. Policy VC 2 would not, therefore, be at odds with the Framework (paragraph 47) insofar as this seeks to boost significantly the supply of housing.
- 4.16 The wording of **Policy VC 2** is, however, somewhat unclear as it does not include a reference to where the settlement boundary is identified in the Plan, it does not specify the approach to be taken to development within the settlement boundary and it refers to Local Green Space which is dealt with in **Policy VC 3**. In the interests of clarity⁶, as proposed by the Council, **Policy VC 2** should be reworded as shown in **PM 1**.
- 4.17 The supporting text to **Policy VC 2** is not entirely accurate when it discusses Key Settlement Gaps and Areas of Significant Environmental Landscape Value in so far as Areas of Significant Local Environmental Value (ASLEV) designations are not being taken forward to the Local Plan

⁶ PPG Reference ID: 41-041-20140306 advises that policies 'should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications'.

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Part Two. In the interest of accuracy Section 5.2 of the report should be corrected⁷ as shown in **PM 2**.

- 4.18 Policy VC 3 designates three Local Green Spaces on the edge of Davenham. The Framework (paragraph 77) sets out three criteria for the designation of such spaces. All of these criteria must be met. The first is that they should be in reasonably close proximity to the community they serve. All of the Local Green Spaces proposed at Davenham are within easy walk of the village and meet this criterion.
- 4.19 The second criterion is that the green areas should be demonstrably special to the local community. The 2014 Community Survey revealed emphatic support for protecting these sites. Various reasons were given for this. It was said that the sites were a recreational asset for walkers and runners and I saw on my site inspection that the proposed Local Green Spaces between Davenham and Moulton (Site 1) and to the south of Davenham Hall (Site 3) have well used footpaths linking the village to the countryside. It was said that they were areas of natural beauty with fine rural views and I saw on my site inspection that Sites 1 and 3 in particular meet that description and that Site 2 (between Davenham and Kingsmead), while less widely visible, lends a rural presence to the village.
- 4.20 It was also said that that the sites are worth protecting because of their value as wildlife habitats and each of them has been identified by the Cheshire Wildlife Trust as containing areas of medium or high and medium habitat distinctiveness. This is not disputed. The last reason given for valuing these sites is that they provide a buffer between Davenham and neighbouring villages. I saw on my site inspection that this is certainly the case for Site 1 which encompasses the last remaining undeveloped fields between Davenham and Moulton and for Site 2 which provides a narrow undeveloped buffer between the village and the Kingsmead which lies beyond the heavily used A556.
- 4.21 I am satisfied that these are all valid reasons for the local community to value these particular areas as being special and the second criterion for designating them as Local Green Spaces is met.
- 4.22 The third criterion is that these areas should be local in character and not be an extensive tract of land. As the Planning Practice Guidance (ID: 37-015-20140306) makes clear there are no hard and fast rules as to how big a Local Green Space can be and a degree of judgement will inevitably

⁷ Paragraph 10(3)(e) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) provides for the recommending of modifications for the purpose of correcting errors.

be needed but it also points out that blanket designations of open countryside adjacent to settlements will not be appropriate. The purpose of this advice is to avoid creating what would amount to a new area of Green Belt by the 'back door'.

- 4.23 Having visited the sites it is my judgement that these sites are to an extent local in character in that they are closely related to the village and help define its individuality. But, and it is a significant but, each of the three proposed Local Green Spaces would be large. Site 1 would be 30 ha, Site 2 would be 6.2 ha and Site 3 would be 19.9 ha. While they would not surround the village they would, taken together, cover substantial areas of countryside around the settlement boundary of Davenham. Roughly speaking these sites would occupy somewhere between one third and one half of the countryside immediately adjoining the village. It would be difficult to reconcile such extensive designations with the advice in the Framework (paragraph 77) that Local Green Space will not be appropriate for most green areas or open space.
- 4.24 Having walked across these sites - where public footpaths exist - and looked at them in relation to the village and the surrounding countryside it is my judgement that each of them can be described as an extensive tract of land. Moreover, taken together, their designation as Local Green Spaces would have the effect of creating a Green Belt on a broad swathe of land some 56ha in extent around the village. In this respect Policy VC 3 would fail to pay due regard to the Framework and the Planning Practice Guidance referred to above insofar as it cautions against designating extensive tracts of land as Local Green Space. Policy VC 3 and its supporting text should, therefore, be deleted as shown in **PM3**.
- 4.25 In coming to this recommendation, I have taken account of the strong local support for the proposed Local Green Spaces. My recommendation should not be construed as meaning these areas do not warrant some form of protection in planning terms and I note that as far as two of these areas are concerned (Sites 1 and 2) it is proposed to designate both them as Key Settlement Gaps in the Emerging Local Plan. My recommendation simply means that I do not consider that the Local Green Space designation in particular is appropriate on these sites.
- 4.26 **Policy VC 4** seeks to ensure that the layout of and access to new development are safe and sensitive to their surroundings. This is consistent with the approach taken in paragraph 35 of the Framework which seeks the provision of safe and secure layouts and Policy STRAT 10 of Local Plan Part One seeks to achieve similar ends.
- 4.27 **Policies VC 5 and 7** each deal with matters of building design, material, scale and style. In principle, these are consistent with the Framework

(paragraph 17) and in general conformity with the strategic policy of Local Plan Part One (Policy ENV 6) insofar as this seeks high quality design. However, in the interests of clarity I, like the Council, consider that these policies should be combined. Policy VC 7 states that buildings should be of 'modest' height and that all windows in roofs should be within the roof plane. The former requirement is imprecise and there is no justification for the latter. Neither of these requirements derive from the Framework nor from strategic policies in the development plan. They should, therefore be deleted and the combined policy reworded in the manner shown in **PM4**.

- 4.28 **Policy VC 6** seeks to ensure that alterations and extensions to existing buildings, including listed buildings, are appropriately designed. This policy is in keeping with the Framework's core principles of seeking to secure high quality design and conserving heritage assets and is in general conformity with Policy ENV 6 of Local Plan Part One which also seeks to promote high quality design.
- 4.29 Policy VC 8 encourages improvements to the current housing stock. This policy has regard to the Framework's aim of delivering a wide choice of high quality homes. However, in stating that replacement dwellings in the countryside should be no larger than those they replace, this policy is not in general conformity with Policy STRAT 9 of Local Plan Part One which simply states that replacement dwellings will be permitted in the countryside. No reason is given for the additional stipulation proposed in Policy VC 8 which should be deleted (**PM5**).

Housing Location

- 4.30 The gist of **Policy HL 1** is that all development outside the defined settlement boundary will be treated as being in the countryside and subject to relevant policy in Local Plan Part One. This point is made in the modified version of **Policy VC 2** and does not need to be repeated. Policy HL 1 should, therefore, be deleted as shown in **PM6**.
- 4.31 **Policy HL 2** seeks to ensure that any increase in traffic flows associated with a development can be accommodated. In principle, such an aim is consistent with the Framework (paragraph 39) and Local Plan Part One (Policy STRAT 10) insofar as these seek to ensure that additional traffic associated with development can be accommodated safely and satisfactorily.
- 4.32 However, the policy refers specifically to account being taken of traffic flows identified in the Plan, but no quantified flows are set out in the Plan. The relevant section of the Plan (Section 4.3) deals in general terms with matters such as the large numbers of school children moving around the

village at peak hours and the high volumes of commuter traffic at those times. It would be difficult to take such generalised flows into account. Moreover, such flows, even if quantified, could vary over the life of the Plan. The requirement to refer back to a fixed but unquantified position is not, therefore justified. In the interests of clarity **Policy HL 2** should be modified to refer to anticipated flows as shown in **PM7**.

Sustainability and Local Need

- 4.33 **Policy S&LN 1** seeks to ensure that the existing service capacity of the village will be able to accommodate the increased demand arising from proposed development or that the required improvements are made. There is nothing objectionable to this in principle. The Framework (paragraph 70) promotes an integrated approach to, amongst other things, the location of housing and community facilities and services while Policy STRAT 11 of Local Plan Part One seeks to facilitate the timely provision of facilities and services.
- 4.34 However, the point has been made by representors that in the normal run of events the consultation carried out as part of the consideration of any planning application would establish whether there was a need for additional infrastructure or for a financial contribution towards this. The Parish Council's response to this is that **Policy S&LN 1** is intended to give local direction to the more general Policy STRAT 11. However, it is difficult to see what that this local direction is, as beyond indicating that services in the village are at capacity the Plan does not analyse in any detail need for additional open space, sports recreation or educational facilities nor does it identify or prioritise any deficits in existing provision.
- 4.35 The wording of **Policy S&LN1** also presents problems. There is reference to developers providing 'fully funded' proposals, but in some instances developers will only be providing contributions to proposals for a wider area and they will not be in a position to guarantee full funding. It is also the case that when the Community Infrastructure Levy (CIL) regime comes into effect developers will not be able to specify where contributions are spent as these will go into a central pot.
- 4.36 **Policy S&LN 1** should, therefore, be deleted (**PM8**) as it would largely duplicate Policy STRAT 11.
- 4.37 **Policy S&LN 2** seeks to ensure that new housing development makes provision for the type of housing needed in the parish, as identified in the Plan or subsequent housing need assessments. This is consistent with the requirement in the Framework (paragraph 50) to identify, amongst other

things, the size of housing required in particular locations reflecting local demand. It is also in general conformity with Policy SOC 3 of Local Plan Part One which states that proposals for new housing should take account of the needs of the particular area.

- 4.38 It is suggested by representors that the policy should be made more flexible by replacing the word 'must' with the word 'should' as this would allow for larger houses to be built which would hold greater financial capacity to support local community aspirations. However, it is not clear what this financial capacity is or what form this support would take. Given the amorphous nature of this argument it does not warrant the suggested re-wording of the policy.
- 4.39 In the interests of clarity, I, like the Council, consider that the policy should specify the particular local needs which are to be met, in other words the need for smaller properties. **Policy S&LN2** should, therefore, be amended in the manner shown in **PM9**.
- 4.40 **Policy S&LN 3** confirms the Plan's support for the policies in Local Plan Part One dealing with the provision of affordable housing policies and adds that such provision should be consistent with the housing types identified in **Policy S&LN2**. This policy has regard to the Framework (paragraph 159) which charges local planning authorities with addressing the need for all types of housing, including affordable housing, as well as requiring that the size, the range and tenure of housing meets local demand (Framework paragraph 50). The very wording of **Policy S&LN3** makes clear that it is consistent with strategic policies in Local Plan Part One.

Building Sustainably

- 4.41 **Policy BS 1** attempts to ensure building sustainability, but does so by simply stating that proposals for new development must be in line with current Building Regulations. In this form, the policy adds nothing to the situation that prevails at present where new developments are already required to meet Building Regulations. Like the Council, I consider that the policy would be given more point and purpose if it included a list of the sustainable construction methods favoured locally as shown in **PM10**. In this amended form, the policy would be consistent with the aims of the Framework (paragraph 95) and Policy ENV6 of Local Plan Part One which seek to move to a low carbon future and promote high quality design and construction.

Landscape and Protected Areas

- 4.42 **Policy L&PA 1** seeks to ensure the provision of green public open spaces in new developments. In general terms, this is in conformity with Policy

SOC 6 of Local Plan Part One which states that development will be required to incorporate or contribute to the provision of appropriate levels and quality of open space and the Framework (paragraph 70) which aims to plan positively for the provision and use of shared space.

- 4.43 However, **Policy L&PA 1** includes a threshold of 25 dwellings and a requirement that a minimum of 20% of the site area be provided as green public open space. Both have been challenged by representors. I accept that in a village such as Davenham in which small scale developments predominate, a figure of 25 dwellings or above is a reasonable definition of major development. However, I have been provided with no substantial evidence to support the 20% figure which should be deleted.
- 4.44 **Policy L&PA 1** also refers to an appendix to the Plan (Appendix 6) which includes minimum dimensions for landscape buffers – something that has been objected to by representors. However, the appendix also refers to the possibility of innovative and flexible solutions that meet the aims of providing landscape buffers as being acceptable. Moreover, the Parish Council has confirmed that these represent a starting point for negotiation. This aspect of the Plan need not therefore be amended.
- 4.45 Nonetheless, for the reasons set out above, other aspects of **Policy L&PA1** should be amended in the manner shown in **PM11**.
- 4.46 **Policy L&PA 2** promotes the retention of existing trees within new developments and the planting of new ones. This policy is in general conformity with Policies ENV 3 and SOC 5 of Local Plan Part One which seeks to promote high quality greenspace and has regard to the Framework, one of the core principles of which is concerned with conserving and enhancing the natural environment.
- 4.47 **Policy L&PA 3** seeks to retain, protect and, where possible, extend the footpath network. This policy is consistent with Policies ENV 3 and SOC 5 of Local Plan Part One which seek to promote high quality greenspace of which footpaths are an integral part. It also has regard to the core planning principles in paragraph 17 of the Framework, which set out (amongst other things) that planning should contribute to conserving and enhancing the natural environment and supporting improvements to the health of the community.

Wildlife

- 4.48 **Policies W1 and W2** seek to minimise the impact of development on biodiversity. In broad terms, this is in conformity with Policy ENV 4 of Local Plan Part One and has regard to the Framework (paragraphs 117 and 118) all of which seek to achieve the same end.

- 4.49 **Policy W2** refers to areas of high or medium ecological value/distinctiveness but does not specify where in the Plan these are identified. In the interests of clarity, it should do so as shown in **PM12**. As worded the policy does not refer to the wildlife network. It is clearly the intention of the Plan that these be protected. Reference to them should therefore be moved from the supporting text to the policy as shown in **PM13**. For the avoidance of doubt, Policy W2 therefore comprises the modifications set out in PM12 and PM13.
- 4.50 The evidence supporting these designations is contained in the report entitled "*Protecting and Enhancing Davenham's Natural Environment*" (2015) prepared by Cheshire Wildlife Trust. This is a thorough and systematic assessment of the natural assets that exist in the neighbourhood and the contents of this document have not been seriously challenged.

General

- 4.51 **Policy G1** states, quite correctly, that each planning decision should be made on its merits with reference to national and local policies. It says that the weight given to various policies will vary with each site but goes on, in effect, to contradict this by suggesting a hierarchy of development benefits whereby the loss of green fields cannot be outweighed by any other benefit; social and welfare benefits outweigh economic benefits; short term benefits have a negligible weighting; and employment benefits from new residents only have a weighting if the jobs exist in the Northwich area.
- 4.52 This goes well beyond anything in the strategic policies in the development plan or national policy or guidance. The gist of that strategic and national policy and guidance is that there are three mutually dependent dimensions to sustainable development, an economic role, an environmental role and a social role – no attempt is made to assign weight to these various roles as is done in **Policy G1**. I acknowledge that **Policy G1** only puts forward these as suggested weights but nonetheless, it is an approach that is out of general conformity with strategic policies in the development plan (Policy STRAT 1 of Local Plan Part One) and does not have due regard to the policies in the Framework (particularly paragraphs 7 and 8). **Policy G1** should, therefore, be deleted. (**PM14**).
- 4.53 **Policy G2** requires developers to put in place a Benefits Realisation Plan against which the benefits of their proposals are measured. In effect, this policy seeks to control the implementation of planning permissions and presumably the benefits it refers to are, for the most part, those that are an integral part of a planning permission; or are specified in planning

conditions or planning agreements attached to such a permission. All such benefits, if not delivered, would be the subject of the planning enforcement regime or other legal remedies.

- 4.54 While it is frustrating for local people to witness what they consider to be developers avoiding providing promised benefits it is difficult to see what a Benefits Realisation Plan would achieve that existing remedies could not. There is also the similar point, as noted in paragraph 4.35 above, that when the CIL regime comes into operation all contributions so levied would go into a central pot and developers would have no control over where these are spent.
- 4.55 It is true that a core principle of the Framework is that the planning process should not simply be about scrutiny, but instead should be a creative exercise in finding ways to enhance and improve the places in which people live their lives (Core Principle 2). It is also true that the Framework seeks to deliver sufficient community and cultural facilities and services to meet local needs. However, insofar as these aims relate to developers delivering promised benefits it appears that Benefit Realisation Plans, while they may be commonplace in commercial service contracts, would duplicate existing planning controls. To that extent a Benefits Realisation Plan would be an unnecessary burden on the developer and run counter to the aims of the Framework which includes paying careful attention to viability and cost in plan making and decision taking (paragraph 173). **Policy G2** should, therefore, be deleted as shown in **PM15**.

5. Conclusions

Summary

- 5.1 The Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the neighbourhood plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Plan as

modified has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

- 5.4 The Parish of Davenham and Whatcroft has, when it comes to planning issues, gone through challenging times in recent years and the Parish Council has striven to produce a plan that addresses these challenges. They are to be congratulated for producing a well-researched, comprehensive and cogent plan.

R J Yuille

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 30, Policy VC 2,	<p>VC 2—The Countryside and Local Green Space between Davenham Village and other settlements is to be maintained with no further development outside of the defined settlement boundary, other than that considered appropriate under STRAT 9 of the CWAC Local Plan</p> <p><u>VC 2 – The settlement boundary of Davenham is defined at fig 5.1. Land beyond this boundary is countryside where development will be restricted to that which requires a countryside location as defined in policy STRAT9 of the Local Plan (Part One). Development within the settlement boundary should ensure that the character and individuality of Davenham village is maintained in accordance with STRAT5 and the Village Character (VC) policies of this Plan.</u></p>
PM2	Page 12, Section 5.2	<p>a. <u>Land to the north, west and south of Davenham is designated in the Vale Royal Local Plan as Areas of Significant Local Environmental Value (ASLEV). ASLEV designations are not being taken forward to the Local Plan (Part Two). Key Settlement Gaps are being introduced instead for areas outside the Green Belt which may include some areas formerly identified as ASLEVs.</u></p> <p>b. <u>Sites 1 and 2 shown at Fig 5.2 have been identified as Key Settlement Gaps through the Council’s Local Landscape Designation Review Paper (February 2016) which has</u></p>

		<p><u>been prepared as a key evidence base document for the preparation of the Local Plan (Part Two). It is proposed that a policy will be included within the Local Plan (Part Two) specifying that within these Key Settlement Gaps, development will be considered acceptable only where it does not harm the integrity and value set out in the reasons for designation.</u></p> <p>a.c. The land segregating Davenham Village from the neighbouring settlements of Moulton and Kingsmead is important to the people of Davenham and helps to maintain individuality. As such, there is land that the people of Davenham have identified as important. (c continues)</p> <p>b. All the land identified is open countryside and lies outside the settlement area. Site 1 (area between Davenham and Moulton) and Site 2 (area between Davenham and Kingsmead) shown at Fig 5.2 below have been identified by the local community as areas between settlements which need protection.</p> <p>c. These sites have also been identified as candidate Key Settlement Gaps through the Council's Local Landscape Designation Review Paper (February 2016) which has been prepared as a key evidence base document for the preparation of the Local Plan (Part Two).</p> <p>d. Key Settlement Gaps will be identified in the Local Plan (Part Two) Land Allocations and Detailed Policies and will replace the ASLEV designation to support policy ENV2 of the Local Plan (Part One). Policy</p>
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		<p>ENV2 (Landscape) seeks to protect and where possible, enhance landscape character and local distinctiveness. Within these Key Settlement Gaps, development will be considered acceptable only where it does not harm the integrity and value set out in the reasons for designation</p> <p>5.4.1 Land of Special County Value a. Primarily, this covers the Weaver Valley that is part of the western boundary between Davenham, Whitegate and Hartford. The Dane Valley is also so designated north of the A556 but, south of this point, the floodplain is protected on the west where it falls between Davenham and the settlement of Whatcroft.</p> <p>5.4.2 Area of Significant Local Environmental Value [ASLEV]. a. These areas of land provide an important protective buffer between the villages of Davenham, Moulton and other settlements and was designated as such in the Vale Royal Local Plan, up to and including that of 2006, to prevent coalescence of the villages. These are being updated as Key Settlement Gaps in the Local Plan Part 2.</p>
PM3	Pages 19 – 20 and Pages 30-31, Policy VC 3.	<p>Delete Policy VC 3 - Local Green Space, and the supporting text on Page 31 prior to Policy VC4 and as a consequence also delete Section 5.8 including Figure 5.5.</p> <p><i>All subsequent VC policies should be re-numbered.</i></p>
PM4		<p>VC 5 - Proposed new builds must be of a high quality design and must be in keeping with existing</p>

		<p><u>buildings in the vicinity. Proposals must incorporate</u>, incorporating local materials and detailing, and complement the built character of Davenham Village. The proposals must relate closely to the form, scale and styles in the immediate vicinity of the site, and should fully consider the impact on the significance and setting of surrounding heritage assets, both designated and undesignated.</p> <p><i>Policy VC7 is to be deleted.</i></p> <p><i>Policy VC 8 should be re-numbered as Policy VC 7.</i></p>
PM5	Page 31, Policy VC 8.	<p>VC 8 - Improvements to the current housing stock are encouraged. Replacement dwellings or extensions to existing dwellings would generally be acceptable provided such proposals comply with the policies in this Neighbourhood Plan and the CWAC Local Plan. Replacement dwellings <u>will be permitted</u> in the open countryside, must be no larger than those formerly on the site.</p>
PM6	Page 31, Policy HL 1.	<p>HL 1 - All new development must be within the defined settlement boundary, other than that considered appropriate under STRAT 8 & 9 of the CWAC Local Plan.</p> <p><i>All subsequent HL policies should be re-numbered.</i></p>
PM7	Page 32, Policy HL 2.	<p>HL 2 - Where the size of the development warrants it and, in any case, for new builds of 25 units or above, proposals must demonstrate that the increase in traffic flow can be accommodated taking into account the daily</p>

		working life of the village and traffic flows identified in this Plan. <u>anticipated traffic flows.</u>
PM8	Page 32, Policy S&LN 1	S&LN 1 – Proposals for new housing, in excess of five dwellings, must demonstrate either that the existing service capacity of Davenham Village (including, but not limited to, school places) will be sufficient to accommodate increased need, or provide a fully funded and credible proposal for the provision of improved infrastructure and services whether on site, through Section 106 contributions or through contributions to the Community Infrastructure Levy. Particular regard should be given to the cumulative impact of smaller developments. <i>All subsequent S&LN Policies should be re-numbered.</i>
PM9	Page 32, Policy S&LN 2	S&LN 2 - New housing proposals must make provision for smaller properties to meet the reflect the latest housing need assessment for the Parish, as supported by the Neighbourhood Plan Consultation and updated via CWAC-identified need in the local area. Proposals should have regard to the latest housing need assessment for the Parish, undertaken through a review of the Neighbourhood Plan or through Council housing needs assessments updated throughout the life of this plan.
PM10	Page 33, Policy BS 1	BS 1 – Proposals for new development must be in line with current Building Regulations. <u>BS 1 Sustainable construction and energy efficiency measures will be</u>

		<p><u>encouraged. Development proposals should, where appropriate, consider the following:</u></p> <ul style="list-style-type: none"> ● <u>Orientation (e.g. to allow for efficient use of solar power generation)</u> ● <u>Thermal insulation and its sustainability</u> ● <u>Rainwater harvesting</u> ● <u>General sustainability of construction materials used</u> ● <u>Ground source heat pumps</u> ● <u>Heat recovery from ventilation</u> ● <u>Photo Voltaic and/or other solar power</u> ● <u>Recycling of 'grey' water</u> ● <u>Water permeable drives and hard standings</u> ● <u>Renewable fuels (e.g. Bio Mass/ Wind Power)</u> ● <u>Roof pitches and usable roof voids.</u>
PM11	Page 33, Policy L&PA 1	<p>L&PA 1 - All residential or commercial development must, where warranted by the size of the development and in any case for 25 units or above, green public open spaces to a minimum of 20% of the site area, with appropriate terms of maintenance in place, including, but not limited to, provide wildlife and green spaces which contribute to the Green Infrastructure Network identified at Appendix 6. Wildlife mitigation areas to provide natural landscape buffers around the site, (in particular between existing properties and any proposed new</p>

		development) <u>will also be encouraged.</u>
PM12	Page 34, Policy W2	W2 - Developers are required to demonstrate and implement schemes such that 'no net loss' (and ideally a net gain) of biodiversity can be achieved using appropriate evaluation and protection methodologies. All areas identified in this Neighbourhood Plan as having high or medium ecological value/distinctiveness (<u>See Figure 7.5</u>) will require detailed evaluation at the appropriate time of year for the purpose of demonstrating no net loss. In accordance with national and local planning policies, development on high ecological value priority habitat should be avoided. Any and all identified newt ponds within the Parish must be protected.
PM13	Page 34 Policy W2. Page 34, paragraph 9.6c	<u>W2 Add - Development within the wildlife corridor network identified at Figure 7.6 should be avoided. Any development close to the corridor should clearly demonstrate that there will be no adverse impacts, particularly in relation to noise, lighting, surface water / pollution and recreational disturbance. A 15 metre buffer zone to protect the corridor is recommended.</u> c. A Davenham natural wildlife corridor network has been identified and recognised in this Neighbourhood Plan. Development within the wildlife corridor network should be avoided. Any development close to the corridor should clearly

		<p>demonstrate that there will be no adverse impacts, particularly in relation to noise, lighting, surface water/pollution and recreational disturbance. A 15 metre buffer zone to protect the corridor is recommended.</p> <p><i>Re-number subsequent paragraphs</i></p>
PM14	Page 34, Policy G1	<p>G1—When analysing the benefits generated by a development proposal, each planning decision should be on its merits with reference to national and local policies and the weight given to various policies will vary with each site. The following hierarchy is suggested:</p> <ul style="list-style-type: none"> • Loss of Green Fields can not be out weighed by any other type of benefit generated by a development proposal, economic or otherwise. • Social and welfare benefits (eg open green spaces and community facilities) outweigh economic benefits. • Short term benefits, e.g. construction jobs have a negligible weighting. • The benefits associated with employment from new residents only have a weighting if the jobs exist in the Northwich area.
PM15	Page 35, Policy G2	<p>G2—Developers will be required to put in place a Benefits Realisation Plan against which the benefits of their proposals are measured.</p>